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## PART-I

### Notifications, Orders and Declarations by Haryana Government

STATE ELECTION COMMISSION, HARYANA  
NIVACHAN SADAN, PLOT NO. 2, SECTOR-17, PANCHKULA, HARYANA-134109

#### Order

The 10th April, 2023

**No. SEC/1ME/2023/630.**— Whereas, the State Election Commission, Haryana *vide* notification No. SEC/1ME/2022/1481 dated 23rd May, 2022 had issued a programme for conduct of general elections for the seats of Presidents and Members of all wards of 28 Municipal Committees and 18 Municipal Councils in the state including Municipal Committee, Assandh, district Karnal. Elections in these municipalities were conducted on 19.06.2022 and results were declared on 22.06.2022. Names of the elected candidates were notified in the official gazette by the State Election Commission, Haryana *vide* notification No. SEC/1ME/2022/6120 dated 04.07.2022.

2. Whereas, Miss Sonia Bohat D/o Sh. Bhagat Singh; Sh. Prince Pal Singh S/o Sh. Devender Singh and Sh. Rajiv S/o Sh. Lichman, all residents of Assandh, Karnal in their complainants dated 27.06.2022 and 12.07.2022, respectively had alleged that Sh. Satish Kataria (who has been elected as President, Municipal Committee, Assandh) at the time of filing nomination had attached 10th Class pass/ matriculation certificate issued by the “Uttar Pradesh State Open School Board”, which is not valid because name of said Board is not included in the equivalence list issued by the Board of School Education Haryana, Bhiwani. The complainants had thus requested to get the matter enquired into and remove Sh. Satish Kataria from the seat of President, Municipal Committee, Assandh being ineligible to contest the election.

3. Whereas, the State Election Commission, Haryana *vide* letter Nos. SEC/2ME/2022/6223 dated 08.07.2022 and SEC/1ME/2022/6359 dated 26.07.2022 sent copies of the complaints made by Miss. Sonia Bohat, Sh. Princepal Singh and Sh. Rajiv to the Deputy Commissioner, Karnal with the directions to get a detailed enquiry conducted through ADC/CEO, Zila Parishad or SDO (Civil) concerned regarding genuineness of the educational qualification i.e. matriculation certificate issued by the “Uttar Pradesh State Open School Board” in favour of Sh. Satish Kataria, President, Municipal Committee, Assandh district Karnal.

4. Whereas, the Deputy Commissioner, Karnal *vide* memo No. 2228/LFA dated 15.11.2022 forwarded a copy of letter dated 31.10.2022 from SDO (C), Assandh and report dated 06.09.2022 of Naib Tehsildar-cum-Assistant Returning Officer, Assandh alongwith relevant documents to the State Election Commission, Haryana for further necessary action in the matter. The Deputy Commissioner, Karnal in a separate memo No. 2167/LFA dated 31.10.2022 has submitted that name of “Uttar Pradesh State Open School Board” is not included in the equivalence list mentioned in chapter 12 and 14 of the Council Regulations and the examinations conducted by the “Uttar Pradesh State Open School Board” or approved by the Board of Secondary Education, Uttar Pradesh. The Deputy Commissioner, Karnal has thus concluded that the matriculation certificate submitted by Sh. Satish Kataria alongwith his nomination is not valid. Similar contents and conclusion is available in the letter dated 31.10.2022 of SDO (C), Assandh and enquiry report dated 06.09.2022 conducted by Naib Tehsildar-cum-Assistant Returning Officer,

Assandh. The name of “Uttar Pradesh Open School Board” is neither available in the list of Institutions recognized by the “Council of Boards of School Education in India” nor in the list of Boards/Universities/Institutions issued by the “Board of School Education Haryana, Bhiwani”.

5. Whereas, before initiating any action against Sh. Satish Kataria, President, Municipal Committee, Assandh district Karnal, the State Election Commission, Haryana issued a “Show Cause Notice” to him *vide* No. SEC/1ME/2022/6919 dated 21.11.2022 providing him an opportunity to produce evidence, if any, to prove that he had passed matriculation examination or its equivalent examination from a recognized institution/board. It was further mentioned that in the absence of any reply from him after the expiry of notice period, it will be presumed that the matriculation (10th Class pass) certificate submitted by him at the time of filing of nomination form was bogus and he had contested the election of President, Municipal Committee, Assandh on a bogus/unrecognized educational qualification certificate and as such, action against him shall be initiated under section 131 of the Haryana Municipal Act, 1973.

6. Whereas, in reply to the “Show Cause Notice”, Sh. Katria in his defense submitted as under:-

- i. That the complaint against him is false and frivolous. The “Uttar Pradesh State Open Board, Prayagraj” has verified his matriculation certificate vide letters dated 13.07.2022 and 04.08.2022 and thus it is valid. He further alleged that the competent authority of the District Karnal has not done verification regarding recognition of the UP State Open School Board from the Education Department/ Ministry, UP and the same was got verified from Secondary Education Parishad, UP, Prayagraj which has no authority of law to verify the equivalence of examination of the UP State Open School Board/ Parishad because both are equivalent institutions and both the institutions independently conduct the examination. Both the institutions fall under the control of UP Government. UP State Open School Board/Parishad conducts examination of the students who appear in the examination as private students without joining any school whereas the Secondary Education Parishad conduct examination of students who are enrolled as regular students in a school.
- ii. That the Secondary Education, Parishad UP is running under the control of Uttar Pradesh Government whereas the UP State Open School Parishad is running under the National Institute of Open School (NIOS) in pursuance of National policy on Education 1986 by the Ministry of Education, Govt. of India Uttar Pradesh State Open School Board is a General Body Member of National Institute of Open Schooling Society. NIOS is under the control of the Govt. of India and the same is recognized and affiliated with the Ministry of Human Resource, Govt. of India. The UP State Open Board is an autonomous board running under the auspices of open schooling of Uttar Pradesh Govt. Education Department following the rules and regulations of UP State Open School Board Act, 2008. Therefore, verification for recognition of UP State Open School Board and equivalent of examination should have been made from the National Institute of Open Schooling Society, Govt. of India or from UP Government, Education Department, because it is following the rules and regulations of Education Department UP Govt.
- iii. That as per the Press Note issued by the State Election Commission at the time of Municipal Elections, only reference of 8thclass pass for SC Women has been made and there is no reference of the qualification of Scheduled Caste candidate and qualification of matriculation is only for unreserved category candidate. However, the Haryana Municipal Act, 1973 provides that in case of a women candidate or a candidate belonging to Scheduled caste, the minimum qualification shall be middle pass but no specific qualification has been provided for Male Scheduled Caste candidate neither in the Rules nor in the press Note. Though no qualification has been prescribed for SC candidate but still the applicant is matriculate and the said certificate has been duly verified by the Board.
- iv. That vision of Uttar Pradesh State Open School Board/Prishad is to impart open education to the rural/urban area students who are unable to go to schools on regular basis due to most backward condition in economic aspects and make them fully qualified and equipped with wide knowledge of such education. Therefore, the said school is a registered Society under the Society Act and affiliated with National Institute of Pen Schooling Society (NIOS). The eligibility criteria for class secondary School Examination (10th) is that those who completed 14 years of age as on 1st August of the year in which admission is sought for on the basis of and declaration to the effect that the candidate has studied enough to be able to pursue secondary School Examination (10th) under the open education system. The applicant was above 14 years of age and 7th class pass from Haryana State; therefore, he was eligible to take admission directly in the matriculation for the examination conducted by UP State Open School Board/Parishad.
- v. That Secretary to Government of Maharashtra, Secondary and Senior Secondary Education Board, Pune *vide* its letter dated 16.01.2020 has conveyed to the UP State Open School Board/Parishad that the

examination conducted by UP State Open School Board are equivalent to the matriculation examination of State Education Board of Maharashtra. Thus the matriculation examination of UP State Open Board is recognized by other State. Further, different Open Schools are running in each state as well as at the level of the Govt. of India and matriculation and senior secondary examination conducted by these Open Boards are equal matriculation and senior secondary examination conducted by the concerned State Boards.

- vi. That in view of the facts and circumstances stated herein above, the matriculation certificate of the applicant from UP State Open School Board/Parishad is valid and the said Board/Parishad is duly affiliated and recognized by the National Institute of Open schooling Society and further National Institute of Open School Society is duly affiliated and recognized by the Govt. of India, HRD Ministry/ Department, New Delhi. The matriculation certificate of the applicant is thus valid and he was eligible and qualified for the post of President of M.C. Assandh”.

7. Whereas, the relevant sections [section 13 A (1) (h) & 13 I] of the Haryana Municipal Act, 1973 and rules [rule 21 (1) (p)] of the Haryana Municipal Election Rules, 1978 in this regard, provides as under:-

#### **HARYANA MUNICIPAL ACT, 1973**

**13A. Disqualifications for President and Members.**—(1) A person shall be disqualified for being chosen as and for being President or a member of a municipality.-

(h) if he has not passed matriculation examination or its equivalent examination from any recognized institution/board:

Provided that in case of a woman candidate or a candidate belonging to Scheduled Caste, the minimum qualification shall be middle pass.

Provided further that in case of a woman candidate belonging to Scheduled Caste, the minimum qualification for members excluding the President shall be 5th pass.

**13 I. Removal of an elected President and Member having any disqualification at time of election.**— The State Election Commission may, after such enquiry, as it may deem fit and after giving an opportunity of being heard, by an order, remove the President or a member, if he was having any disqualification mentioned in section 13A or rules framed under this Act at the time of his election. The office of the President or member so disqualified shall become vacant immediately.

#### **HARYANA MUNICIPAL ELECTION RULES, 1978**

**21. Disqualifications for membership.**— (1) No person shall be eligible for election as a President/member of a committee, who.-

(p) has not passed matriculation examination or its equivalent examination from any recognized institution/board:

Provided that in case of a woman candidate or a candidate belonging to Scheduled Caste, the minimum qualification shall be middle pass.

Provided further that in case of a woman candidate belonging to Scheduled Caste, the minimum qualification for members excluding the President shall be 5th pass.

8. Whereas, the State Election Commission, Haryana has examined reply submitted by Shri Satish Kataria to the above said show cause notice, keeping in view the provisions given in the relevant Act & Rules, instructions issued by the Government, the enquiry report and other documents attached therewith. After careful examination, it has been observed that-

- i. The Secretary, Secondary Education Council, Prayagraj, Uttar Pradesh *vide* Memo No. Council-9/550 dated 31.08.2022 addressed to the Inquiry Officer *i.e.* Naib Tehsildar-cum-Assistant Returning Officer, Assandh, district Karnal has intimated that name of “Uttar Pradesh State Open School Board” is not included in the equivalence list mentioned in chapter 12 and 14 of the Council Regulations and the examinations conducted by the ‘Uttar Pradesh Pradesh Rajya Mukat Vidhalaya Parishad’ are not equivalent to the examination conducted by ‘Madhyamik Shiksha Parishad, Uttar Pradesh’.
- ii. In reply to an RTI application, the Assistant Secretary (Education), Board of School Education Haryana, Bhiwani *vide* Memo No. 2621EW A-3 dated 18.07.2022 has intimated the complainant Sh. Rajiv that as per School Education Board Bhiwani, name of “Uttar Pradesh State Open School Board” is in the list of fake boards.

- iii. The name of “Uttar Pradesh State Open School Board” is not available in the list of Boards/Universities/Institutions that have been recognised by the “Board of School Education Haryana, Bhiwani”.
- iv. The name of “Uttar Pradesh State Open School Board” is not available in the list of Institutions recognized by the “Council of Boards of School Education in India”.
- v. The allegation of Sh. Satish Kataria (alleged in reply to the Show Cause Notice) that no specific qualification has been provided for male scheduled caste candidate in press note and rules, is totally baseless and false, as it has clearly been provided in the rules and press note (issued by the State Election Commission at the time of announcing election) that minimum educational qualification for a **woman candidate or a candidate belonging to Scheduled Caste, shall be middle pass.**

Moreover, the seat of President, Municipal Committee, Assandh, district Karnal was reserved for a candidate belonging to “SC category”, so minimum education qualification required to contest the election of this seat was/is “middle pass”, whereas Sh. Satish Kataria at the time of filing nomination had filed 10th class certificate issued by the “Uttar Pradesh State Open School Board”.

Sh. Satish Kataria in his reply (to the Show Cause Notice) has made it clear that he was 7th class pass before taking direct admission in the matriculation examination conducted by the UP State Open School Board/Parishad. From this statement of Sh. Satish Kataria, it is clear that he has not passed 8th class examination from any recognised Board/Institution and had directly applied for matriculation examination conducted by UP State Open School Board/Parishad.

9. Whereas, the State Election Commission, Haryana had also referred this matter to the Legal Remembrancer, Haryana for legal advice on the following points:-

- i. Whether the 5th, 8th or 10th class pass certificate issued by any Board/Institution of any other State which is treated as equivalent by the School Education Board Haryana, Bhiwani only will be valid educational qualification for any candidate being chosen as and for being President or a member of a municipality?
- ii. Whether the 5th, 8th or 10th class pass certificate issued by any Board/Institution which is recognized in any State other than Haryana but not included in the equivalency list of Board of School Education Haryana, Bhiwani, will also be considered as valid educational qualification for any candidate being chosen as and for being President or a member of a municipality?

The Legal Remembrancer and Administrative Secretary to Government, Haryana, Law and Legislative Department *vide* U.O. No.1055-G(18)Election.Op.Br.23/60 dated 13.02.2022 has drawn the attention of State Election Commission, Haryana towards rule 21(4) of the Haryana Municipal Election Rules, 1978, which provides as under:

‘21(4) If any question arises as to whether the president or a member of a committee has become subject to any of the disqualifications mentioned in the Act and the rules, the question shall be referred by the Deputy Commissioner to the State Election Commissioner, Haryana whose decision shall be final.’

In view of the above said provision, the Law and Legislative Department has advised that necessary decision in the matter is required to be taken by the State Election Commissioner at his own level whose decision shall be final.

10. Whereas, the Financial Commissioner & Secretary to Government of Haryana, Education Department in compliance with the order 16.05.1999 passed by the Hon’ble High Court of Punjab and Haryana at Chandigarh in CWP No.16320 of 1996 titled *Ram Bhagat etc. versus State of Haryana and others*, has also issued clarification to the Director, Higher/Secondary/Primary Education, Haryana & Director, S.C.E.R.T., Haryana, Gurugram *vide* Memo No. 15/S4/29-Edu-II (2) dated 02.11.1999 that the Degrees/Diplomas/Certificates/ Examinations recognized by the Kurukshetra University, Kurukshetra; Maharishi Dayanand University, Rohtak; Guru Jambheshwar University, Hisar; Haryana Agricultural University, Hisar; N.D.R.I Karnal; Board of School Education Haryana, Bhiwani; State Board of Technical Education Haryana would stand recognized in the State of Haryana for admission and recruitment purposes.

11. So, far as verification regarding recognition of UP State Open School Board from the National Institute of Open Schooling Society, Govt. of India and UP Government, Education Department is concerned as contended by Sh. Satish Kataria in his reply, in this regard the State Election Commission, Haryana *vide* letter No. SEC/1ME/2023/32 dated 06th January, 2023 requested the Director of Education, Directorate of Secondary Education, Uttar Pradesh to inform whether the “Uttar Pradesh State Open School Board, Allahabad” is recognized by the State of Uttar Pradesh or not? The Directorate of Secondary Education, Uttar Pradesh forwarded this request to the Secretary, Secondary Education Council, Uttar Pradesh, Prayagraj for further necessary action, who *vide* memo No. Council-9/1181 dated 17.02.2023. Now the Secretary, Secondary Education Council, Uttar Pradesh has intimated

the State Election Commission, Haryana that name of “Uttar Pradesh State Open School Board” is not included in the equivalence list mentioned in chapter 12 and 14 of the Council Regulations (i.e. Secondary Education Council, Uttar Pradesh, Prayagraj). In addition the State Election Commission, Haryana has also downloaded the list of recognized boards/institutions from the official website of the ‘National Institute of Open Schooling’ and observed that there is no name of the ‘Uttar Pradesh State Open School Board’ in the said list.

12. Whereas, before taking final decision, the State Election Commission, Haryana provided an opportunity of personal hearing to Sh. Satish Kataria for 21.02.2023, however, due to administrative reason the hearing could not be held on that date. Sh. Kataria was intimated accordingly and he was directed to appear for hearing on 03.03.2023. However, he made a written request that due to poor health he cannot appear for personal hearing on 03.03.2023 and he requested to postpone the same till he gets well. Considering his request sympathetically, personal hearing was postponed to 17.03.2023 and he was intimated accordingly. On 17.03.2023, Sh. Satish Kataria alongwith his legal counsel appeared for personal hearing and intimated that he had filed a Civil Writ Petition bearing No. 5897 of 2023 in the Hon’ble High Court of Punjab and Haryana praying for staying the enquiry proceedings and the said writ petition will be taken up for hearing by the Hon’ble Court in the afternoon. Sh. Ankur Mittal, Additional Advocate General, Haryana also confirmed this statement telephonically. Accordingly the date of personal hearing of Sh. Satish Kataria was thus adjourned to 03.04.2023. The Hon’ble High Court on 17.03.2023 heard the above CWP and after considering the difficulty of counsel for the petitioner has adjourned the same for 24.04.2023.

13. Whereas, Sh. Satish Kataria alongwith his advocate appeared before the undersigned on 03.04.2023 and repeated his stand as mentioned in the reply to Show Cause Notice. However, he has failed to produce any concrete evidence to prove that Uttar Pradesh State Open School Board which has issued matriculation certificate to him is a recognized institution/board. The matriculation certificate issued by the “Uttar Pradesh State Open School Board” in favour of Sh. Satish Kataria has thus no statutory backing, as the institution has not been recognized by any statutory Authority. The allegations thus leveled against Sh. Satish Kataria by Miss. Sonia Bohat D/o Sh. Bhagat Singh; Sh. Princepal Singh S/o Sh. Devender Singh and Sh. Rajiv S/o Sh. Lichman, all residents of Assandh, Karnal, are found correct. Sh. Satish Kataria not being in possession of a valid certificate as regards requisite academic qualification at the time of filing of nomination form, thus deserves disqualification under section 13A (1) (h) of the Haryana Municipal Act, 1973 and rule 21(1)(p) of the Haryana Municipal Election Rules, 1978 and is liable to be punished under section 13I of the Haryana Municipal Act, 1973.

14. In view of the above facts, I, Dhanpat Singh, State Election Commissioner, Haryana, in exercise of the powers vested in me under articles 243K and 243ZA of the Constitution of India and section 13A and 13 I of the Haryana Municipal Act, 1973, declare that Sh. Satish Kataria was not qualified to contest the election for the post of President, Municipal Committee, Assandh, district Karnal because he did not have the requisite educational qualification at the time of his election, and therefore, he is hereby removed from the post of President, Municipal Committee, Assandh, district Karnal. I also declare the said post vacant with immediate effect. Name of Sh. Satish Kataria notified as President of Municipal Committee, Assandh, district Karnal vide State Election Commission Notification No. SEC/IME/2022/6120 dated 04.07.2022 shall also be treated as de-notified.

15. The above order shall be notified in the official gazette of the State Government.

The matter is disposed of accordingly.

DHANPAT SINGH,  
State Election Commissioner, Haryana.